REMARKS

Claims 1-21 and 26-40 (of which claims 1, 9, 14, 19, 26, 31, and 34 are independent) were pending as of the mailing date of the office action. Claims 1, 9, 14, 18, 19, 26, 31, and 34 have been amended and Claims 5 and 38 are canceled. Favorable reconsideration of the Office Action is respectfully requested, particularly in view of the following remarks.

35 U.S.C. § 112

Claims 1-21 and 26-40 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Office Action rejected Claims 1-21 and 26-40 on the basis that the claims are not described in the specification in such a way as to reasonably convey to one skilled in the art that Applicant had possession of the claimed invention at the time the Application was filed. Importantly, Applicant notes that § 2163(I)(B) of the MPEP explicitly states that the written description requirement does not include an *in haec verba* requirement stating that the words used in the claims must exactly match those used in the specification. *See* MPEP § 2163. Instead, "newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure." *Id.* Further, the MPEP states that the "the fundamental factual inquiry is whether the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed." *Id.* (citation omitted). With this in mind, Applicant respectfully traverses this rejection because the specification as a whole "conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed. *See, e.g., Vas-Cath, Inc.*, 935 F.2d at 1563-64, 19 USPQ2d at 1117." MPEP § 2163.

It appears that the Office Action focuses on limitations related to processes repeatedly attempting to associate themselves with lower lock levels, the Office Action indicating that such limitations are not supported by the specification in the present Application. But the present Application explicitly provides that "each process A, B, C attempts to obtain a lower lock level." Present Application at ¶ [0025]. As an example, a process may call a software procedure in order to have a lower lock level assigned to it. *See* Present Application at ¶¶ [0027, 0031, 0032].

For example, Paragraph [0025] and Figure 2 of the disclosure describe a procedure **100** to allow the processes A, B, C to share access to a data table. "Each ***process*** A, B, C ***attempts*** to obtain a lower lock level" to be granted access to the data table. "[I]f successful, [the process] unlocks (releases) the previous lock level." Paragraphs [0031-0032] describe processes A, B, C "calling procedures **100***a*, **100***b*, and **100***c* (which are instances of procedure **100**)" in order to associate the process with a lower lock level, each of processes A, B, C calling an associated instance **100***a*, **100***b*, and **100***c* of the procedure.

As such, while the foregoing are merely examples, they clearly provide sufficient evidence that Applicant had "possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention." *Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572, 41 USPQ2d 1961, 1966 (Fed. Cir. 1997)." MPEP § 2163. Accordingly, Applicant respectfully submits that Claims 1-21 and 26-40 comply with the written description requirement, and requests that the rejections under 35 U.S.C. § 112, first paragraph, be withdrawn.

Claim rejections – 35 U.S.C. § 103

Claims 1-20 and 26-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,108,654 to Chan et al. ("*Chan*") in view of U.S. Patent Publication No. 2002/0078119 to Brenner et al. ("*Brenner*"). Applicant respectfully traverses the rejections and all the assertions and holdings therein at least because neither *Chan* nor *Brenner* teach, suggest, or disclose a particular process repeatedly attempting to associate the process with a lower lock level by calling an instance of a procedure associated with the process.

In contrast, *Chan* teaches a single, centralized "lock manager" for managing lock states on behalf of and granting access to the multiple processes. *See Chan*, 6:1-18. In *Chan*, the lock manager "***manages and controls the allocation of locks in a system***." *Id.* at 6:2-3 (emphasis added). While each node in a distributed system may have a particular lock manager, "[i]f a process seeks to access a resource, it sends a lock request to the lock manager." *Id.* at 6:13-14. In other words, it is a centralized lock manager for that node. "Each lock granted to a process is typically associated with an access mode," such as a shared read mode, shared write mode,

protected write mode, and so forth, but not an incremental lock level. *Id.* at 6:18-52. The lock manager "converts" the lock by changing a process's access mode from one state to another. *Id.* at 6:66-7:11. As such, the centralized "lock manager" of *Chan* does not teach or suggest individually associated instances of a procedure for associating incremental lock levels with its associated process. *Chan* also discloses lock conversions changing a lock level from one access state to another. *See id.*, 7:8-10. Accordingly, *Chan* fails to teach or suggest a particular process repeatedly attempting to associate the process with a lower lock level by calling an instance of a procedure associated with the process.

Brenner fails to remedy the deficiencies of *Chan*. Instead, *Brenner* similarly discloses a centralized queue manager to manage the queue and move processes down the queue. *See Brenner*, FIG. 4, ¶ [0055]. *Brenner* teaches further that if a process attempts to gain access to a record already in use and is denied access to the record, the process is put to sleep by the queue manager until the record is available for access. Instead of the processes repeatedly attempting to gain access to the record until access to the record is granted, the queue manager "processes the queue" (*Brenner*, ¶ [0053]) by setting access "flags" (*Brenner*, ¶¶ [0055-0057]), and even managing processes' attempts to *access the record*, "the queue manager wak[ing] up one or more processes that are waiting for the lock." *Brenner*, ¶ [0053] (emphasis added). Accordingly, neither *Chan* nor *Brenner* teach, suggest, or disclose a particular process repeatedly attempting to associate itself with a lower lock level by calling an instance of a procedure associated with the process. Accordingly, Applicant respectfully requests withdrawal of the rejection and allowance of the claims.

Claim 21 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Chan* in view of U.S. Patent No. 6,658,447 to Cota-Robles ("*Cota-Robles*"). Applicant respectfully traverses this rejection, at least because Claim 21 depends from Claim 20, argued above, and *Cota-Robles* fails to account for those deficiencies.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. It is believed that all of the pending claims have been addressed. Applicant notes that the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicant hereby requests a telephone conference with the Examiner and further requests that the Examiner contact the undersigned attorney to schedule the telephone conference.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any other deficiencies or required fees or any credits to deposit account 06-1050, referencing the attorney docket number 19797-0011001/2003P00384 US.

Respectfully submitted,

Date: August 22, 2008

/Thomas H. Reger II/
Thomas H. Reger II
Reg. No. 47,892

Fish & Richardson P.C.
1717 Main Street, Suite 5000
Dallas, Texas 75201
Telephone: (214) 292-4084
Facsimile: (214) 747-2091